

## REMARKS

This amendment is responsive to the Office Action mailed October 6, 2004. In the Office Action, Claims 1, 4-6, 8-20, 23-26, 28-29, and 37-38 were rejected as being anticipated by Rowe et al. (U.S. Patent Application Publication No. 2001/0003846). Claim 7 was rejected as being unpatentable over Rowe et al. in view of official notice taken by the Examiner. Claims 2-3, 21-22, and 30-31 were rejected as being unpatentable over Rowe et al. in view of Heller ("VPS" article). Claims 27 and 36 were rejected as being unpatentable over Rowe et al. in view of Rakib (U.S. Patent Application Publication No. 2002/0019984).

Applicant has carefully reviewed the Office Action and the cited art and submits that the claims presented above define an invention that is patentable over the prior art. Reconsideration of the application and allowance of the claims is respectfully requested.

### Information Disclosure Statement

Prior to discussing the substance of the cited art and the patentability of the claims, applicant notes the Examiner's request for a replacement Form 1449 that lists prior art previously provided to the Patent Office in an Information Disclosure Statement. A replacement Form 1449 is provided herewith.

### Rowe et al.

The Rowe et al. publication discloses a method and system for creating and distributing programming content. The programming content is carried by digital streaming media to a plurality of remote programming nodes located over a large geographic area to create customized broadcast quality programming at the remote nodes. As indicated in paragraph 32 of the Rowe et al. publication, the remote nodes located at the remote locations throughout the geographic area allow locally customized programming to be assembled from national program components and information components assembled with local data or locally produced programming. The

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

programming at the remote nodes may be controlled from a network operation center (NOC) using a variety of application software programs and hardware. The assembled programming components are integrated to provide customized programming content for distribution via the remote nodes.

The essence of the disclosure of Rowe et al. is that various remote channel origination nodes (RCONs) are able to pick and choose various programming components, and then concatenate or otherwise integrate the various program components to provide a customized broadcast quality channel of content for distribution to viewers. The customized channel presents a continuous flow of program components that are assembled for original broadcast to viewers according to various criteria and broadcast time allocations, e.g., as exemplified at paragraphs 87-94 of the Rowe et al. application.

#### The Present Application

In contrast, the claims of the present application provide methods and systems for providing a central recording system that facilitates time shifting and/or redistribution of television broadcast content. A broadcast center receiving programming content from a plurality of broadcasters is able to record and store incoming content as it is received from local, regional, and national broadcasters and/or content sources to facilitate time shifting of content for clients, and provide an efficient mechanism of the distribution and/or redistribution of content to the originating broadcaster, to an interactive television service, or to other third parties with an interest in receiving the content.

As can be understood in connection with FIGURE 3 of the present application, according to one embodiment of the invention, programming content is received at a broadcast center from a plurality of broadcasters (block 301). The programming content is broadcast to a plurality of client terminals (block 307). The broadcast to the client terminals may include, in an

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

embodiment, all of the incoming programming content, including real-time versions of the programming content that has been recorded, stored, or converted into another format (blocks 303 and 305), as explained at page 15, lines 5-10 of the present application. The programming content is broadcast to the plurality of client terminals as an original broadcast of the programming content without request for the content from the client terminals. Thereafter, in response to a user-specified preference, a piece of programming content is retrieved from storage and transmitted at blocks 311 and 313. The retrieved programming content is transmitted at a time different from the broadcast time of the original programming broadcast. *See, e.g.*, the discussion at page 15, lines 11-22 of the present application.

Allowability of Claims Over Rowe et al.

The embodiment of the invention claimed in Claim 1 includes "receiving programming content from a plurality of broadcasters at a broadcast center" and "recording at least a portion of the programming content in a storage device." In response to a user-specified preference, the method further includes "retrieving from the storage device at least one piece of programming content, wherein the at least one piece of programming content has previously been broadcast to a plurality of client terminals at a broadcast time without request from the client terminals." The retrieved piece of programming content is transmitted "to a location remote from a recording location at a time different from the broadcast time."

Careful review of the disclosure in the Rowe et al. publication confirms that these elements of the method claimed in Claim 1 are neither disclosed nor suggested by Rowe et al. As noted above, the system disclosed by Rowe et al. is not concerned with handling content that was previously broadcast at a broadcast time to a plurality of client terminals, retrieving such content from a storage device in response to a user-specified preference, and transmitting the content as claimed in Claim 1. Rather, the disclosure of Rowe et al. is directed to a system that

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

allows "remote channel origination nodes" to aggregate various initial program components and thereafter generate a customized continuous original broadcast of content that is encapsulated and streamed to viewers.

Most significantly, Rowe et al. fail to teach or suggest a method that includes , "in response to a user-specified preference, retrieving at least one piece of programming content from [a] storage device, wherein the at least one piece of programming content has previously been broadcast to a plurality of client terminals at a broadcast time without request from the client terminals" and further "transmitting the at least one piece of programming content to a location remote from a recording location at a time different from the broadcast time."

For at least these reasons, applicant submits that the disclosure of Rowe et al. does not anticipate each and every element of Claim 1. Accordingly, the invention defined in Claim 1 is patentable over the Rowe et al. publication, and Claim 1 should be allowed.

Claims 2-16 are also patentable over the Rowe et al. publication for their dependence from allowable Claim 1 as well as for the additional subject matter recited therein. With respect to Claims 2-3, the disclosure of Heller does not cure the deficiencies in the Rowe et al disclosure. Similarly, the official notice taken by the Examiner with respect to Claim 7 does not overcome the deficiencies in the Rowe et al. disclosure. Accordingly, Claims 2-16 should be allowed.

As to Claim 17, Rowe et al. do not teach or suggest "recording at least one piece of the programming content in a storage device in response to a user-request from at least one user." Rowe et al. also fail to teach or suggest a method that includes, "in response to a user-specified preference, retrieving the at least one piece of programming content from the storage device, wherein the at least one piece of programming content has previously been broadcast to a plurality of client terminals at a broadcast time without request from the client terminals" and

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

further "transmitting the at least one piece of programming content to at least one user at a time different from the broadcast time."

Applicant submits that the disclosure of Rowe et al. does not anticipate each and every element of Claim 17. Accordingly, the invention defined in Claim 17 is patentable over the Rowe et al. publication. Claim 18 is also patentable over the Rowe et al. publication for its dependence from allowable Claim 17 as well as for the additional subject matter recited therein. Accordingly, Claims 17-18 should be allowed.

Claim 19 has not been amended. Applicant has considered the art and the Examiner's arguments in the Office Action, and believes the invention defined in Claim 19 is patentable over Rowe et al. Claim 19 is directed to a method wherein, after receiving programming content from a plurality of broadcasters at a broadcast center, the method includes "converting the programming content into a streaming data format", "recording at least a portion of the programming content in a storage device", and "broadcasting the programming content to a plurality of client terminals." In response to user-specified preferences, the method further "retriev[es] at least one piece of programming content from the storage device" and "transmit[s] the at least one piece of programming content to an interactive television service to allow access to the at least one piece of programming content via a network." Applicant submits that Rowe et al. do not teach or suggest all of these elements of Claim 19, and thus Claim 19 should thus be allowed.

Claim 20 also has not been amended, and contrary to the opinion expressed by the Examiner in the Office Action, the invention defined in Claim 20 is patentable over the disclosure of Rowe et al. Claim 20 is directed to a broadcast center in which execution of machine instructions causes a server processor to undertake several actions. In particular, execution of the machine instructions causes a server processor to "receive the programming

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

content from [a] plurality of broadcasters via a first communications link", "record at least a portion of the programming content in the storage device at a recording location", "broadcast the programming content to a plurality of client terminals via a second communications link", "retrieve at least one piece of programming content from the storage device in response to user-specified preferences", and "transmit the at least one piece of programming content to a location remote from the recording location." Rowe et al. fail to teach or suggest all of the elements of Claim 20. Claim 20 should thus be allowed.

Claims 21-28 are also patentable over Rowe et al. for their dependence from allowable Claim 20 as well as for the additional subject matter recited therein. With respect to Claims 21-22, the disclosure of Heller does not cure the deficiencies in the Rowe et al disclosure discussed above with respect to Claim 20. Similarly, with respect to Claim 27, the disclosure of Rakib does not overcome the deficiencies in the Rowe et al. publication. Claims 21-28 should thus be allowed.

Claim 29 is an independent claim directed to an article of manufacture comprised of a machine-readable medium including instructions stored thereon. In part, the instructions are defined to "record at least a portion of the programming content in a storage device at a recording location" and "in response to a user-specified preference, retrieve at least one piece of programming content from the storage device, wherein the at least one piece of programming content has previously been broadcast to a plurality of client terminals at a broadcast time without request from the client terminals." The instructions are further defined to "transmit the at least one piece of programming content to a location remote from the recording location at a time different from the broadcast time." These elements are missing from the disclosure of Rowe et al., and therefore the rejection of Claim 29 should be withdrawn. Reconsideration and allowance of Claim 29 is respectfully requested.

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

Claims 30-37 are also patentable over the Rowe et al. publication for their dependence from allowable Claim 29 as well as for the additional subject matter recited therein. With respect to Claims 30-31, the disclosure of Heller does not cure the deficiencies in the Rowe et al disclosure. Similarly, with respect to Claim 36, the disclosure of Rakib does not overcome the deficiencies in the Rowe et al. publication. Claims 30-37 should be allowed.

Lastly, Claim 38 recites a method that includes, in part, "broadcasting the programming content as an original broadcast to a plurality of client terminals at a broadcast time", "receiving a request for at least one piece of programming content from at least one service provider via [a] communications link, wherein the at least one piece of programming content comprises programming content included in the original broadcast", "retrieving the at least one piece of programming content from the storage device", and "transmitting the at least one piece of programming content to at least one service provider at a time different from the broadcast time." At a minimum, these elements of Claim 38 are not found disclosed in the Rowe et al. publication. Claim 38 should thus be allowed.

### CONCLUSION

As discussed above, the disclosure of Rowe et al., either alone or in combination with disclosures of Heller and/or Rakib or official notice taken by the Examiner, does not in fact teach or suggest all of the elements of the claimed invention. The system disclosed by Rowe et al. is intended to solve the problem of creating a customized broadcast channel, which is different than the storage and retrieval of previously broadcast content as provided by the present invention as claimed. Such storage and retrieval facilitates time shifting and/or efficient redistribution of television broadcast content. The rejection of the claims for anticipation or obviousness based on Rowe et al., Heller, and Rakib should be withdrawn, and the claims allowed. Action to that end and passing the case to issuance at an early date is respectfully requested. Should the

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

Examiner have any remaining comments or questions, he is invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

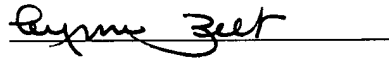
CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>



Kevan L. Morgan  
Registration No. 42,015  
Direct Dial No. 206.695.1712

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to **Mail Stop Amendment**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: January 6, 2004



KLM:mk

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100